IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 6578 of 1994

Between:

The Management of Singareni Collieries Co.,ltd., rep.by it's Chief General Manager,
Bellampalli, Adilabad Dist.

..... PETITIONER

AND

1 The Presiding Officer, Industrial Tribunal-I,
Chandra vihar, M.J.Road,
Hyderabad.
2 The Workmen of Singareni Collieries Co., Ltd., rep. By the chief Vice President,
Singareni collieries worker' Union (AITUC), Bellampalli,
Adilabad dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of WRIT OF CERTIORARI" after calling for the records from the first respondent in I.D.No.79/1989 and quash the Award passed therein dt.23.11.1993 , and pass such further or other orders as this Hon'ble Court may deem fit and necessary in the circumstances of the case.

Counsel for the Petitioner:MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR SOCIAL WELFARE

Counsel for the respondent NO. 2 : Mr. R. N. Reddy

The Court made the following :

1. The award passed by the Industrial Tribunal in I.D.No. 79 of 1989 dated 23rd November 1993 is assailed by the Management of Singareni Collieries Company Limited.

2. The workman was working as Badli Worker in the Singareni Collieries Company Limited. He was appointed in 1981. His services were terminated from 31st December 1983 and therefore, raised an Industrial Dispute, which was referred by the Central Government under Section 10 of the Industrial Disputes Act. The Tribunal on adjudication of the dispute, held that the workman completed more than 194 days of service therefore, there was violation of Section 25-F of the Industrial Disputes Act and consequently passed an award dated 23.11.1993 directing the Management to reinstate the workman with continuity of service and with full back wages. Against the said order, the present Writ Petition has been filed.

3. The learned counsel appearing for the Management submits that the award passed by the Tribunal is wholly illegal and without jurisdiction. She submits that the petitioner workman was only Badli Worker and therefore, he is not entitled for protection of Section 25-F of the Industrial Disputes Act. She further submits that the workman did not complete 195 days of service and therefore, the award suffers from errors apparent on the face of the record and therefore, the same is liable to be set aside.

4. The learned counsel for the workman submits that the Tribunal after appreciating the evidence adduced by both the parties, came to the conclusion that the

termination of the workman was not justified. The Tribunal also found that number of juniors who were inducted as Badli Workers were made permanent and they were not terminated from service and therefore, the Management is adopting discriminatory attitude.

5. I have heard the learned counsel for both the parties.

6. The Tribunal has recorded a finding of fact with regard to the actual working days put in by the workman and it came to the conclusion that the workman put in 194 days of service. Thus the Tribunal found that the termination was illegal and contrary to provisions of Industrial Disputes Act. Therefore, it is not appropriate for this court to interfere with the finding of fact recorded by the Tribunal unless the said finding is based on no evidence. Thus I find that the finding of the Tribunal that the termination is not valid according to the provisions of 25-F of the Act cannot be said to be illegal and contrary to law.

7. Regarding the question of relief, the learned counsel submits that the workman was not vigilant and he did not raise any dispute immediately after termination, but the labour court has awarded the workman by giving full back wages even for the period he was not active in exposing his case, therefore, the Tribunal ought to have reduced the quantum of back wages. The contention appears to be acceptable. When the termination was affected on 31.10.1983 he only made demand after five years challenging the said termination and thereafter, the matter was taken up by the Central Government and the Government referred the matter for adjudication. Thus I find that there is inaction on the part of the workman for five years.

8. Under those circumstances, I find no justification on the part of the Tribunal in awarding full back wages for the period of un-employment. Accordingly, as far as back wages are concerned, I am inclined to modify the same and I hold that the employee is entitled for 50% back wages form the date of termination till the date of reinstatement.

9. With this Modification, the Writ Petition is disposed. No costs.

15.07.2004.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Presiding Officer, Industrial Tribunal-I,
Chandra vihar, M.J.Road, Hyderabad.

2. 2 CCs to G.P for Social Welfare, High Court Buildings, High Court of A.P., Hyderabad.

3. 2CD copies